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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/745,536	12/22/2000	Mun Keung Leung	1190-2112	2137
27045	7590	12/29/2004	EXAMINER	
ERICSSON INC. 6300 LEGACY DRIVE M/S EVR C11 PLANO, TX 75024				SCHEIBEL, ROBERT C
			ART UNIT	PAPER NUMBER
			2666	

DATE MAILED: 12/29/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/745,536	LEUNG, MUN KEUNG	
	Examiner Robert C. Scheibel	Art Unit 2666	<i>[Signature]</i>

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on _____.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 35-52 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 35-52 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____. |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____. | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____. |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments, see section "Examiner Objections – Specification" on page 8, filed 8/6/2004, with respect to the objections to the specification have been fully considered and are persuasive. The minor informalities have been corrected as suggested. The objection to the specification regarding the lack of antecedent basis for the subject matter of claims 11, 23, and 34 is withdrawn due to the cancellation of claims 11, 23, and 34. However, this subject matter is still not supported in the specification. The objections to the specification have been withdrawn.
2. Applicant's arguments, see "Claim Rejections – 35 U.S.C. 102(e)" on page 8, filed 8/6/2004, with respect to the rejection of claims 1-4, 6-16, 18-27, and 29-34 under 35 U.S.C. 102(e) have been fully considered and are persuasive (as all of these claims have been cancelled). The rejection of claims 1-4, 6-16, 18-27, and 29-34 under 35 U.S.C. 102(e) has been withdrawn.
3. Applicant's arguments, see "Claim Rejections – 35 U.S.C. 103(a)" on page 8, filed 8/6/2004, with respect to the rejection of claims 5, 17, and 28 under 35 U.S.C. 103(a) have been fully considered and are persuasive (as all of these claims have been cancelled). The rejection of claims 5, 17, and 28 under 35 U.S.C. 103(a) has been withdrawn.
4. Applicant argues that the new claims are patentable; examiner disagrees as detailed in the rejection under 35 U.S.C. 102 (e) below.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 35-52 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent

Application Publication Number 2004/0076161 to Lavian et al.

Regarding claims 35, 41, and 47, Lavian discloses a VLAN aware device in device 17 of Figure 1; the device is the VLAN aware device as disclosed in lines 1-9 of paragraph 18 on page 2. Lavian discloses (the step of, means for, and instructions within the computer usable medium for) receiving the data packet in a VLAN aware device in step 91 of Figure 3. Lavian discloses examining a plurality of attributes of the data packet in lines 4-8 of paragraph 4 on page 1 and lines 11-15 of paragraph 18 of page 2. Lavian discloses analyzing network traffic load in the abstract and in lines 4-8 of paragraph 4 on page 1. The bandwidth consumption is the network traffic load. Lavian discloses utilizing a set of rules of reclassification that are predetermined according to one or more of the plurality of attributes throughout the document and specifically in the implementation example of Figure 6 and the associated explanatory text. In this example, as explained in paragraphs 38 and 39 of page 5, the one or more of the plurality of attributes are the MAC address, the initial priority queue assignment, and the line utilization percentages. Lavian discloses applying a predetermined set of weighting factors against the plurality of attributes and the network traffic load in Figure 6 in general and in paragraph 43 in particular. Paragraph 43 indicates that the example in Figure 6 represents just one example of how the queue selection can be performed. This paragraph cites other examples of using different combinations of other attributes to accomplish the same end of dynamically changing the priority

queue assignment of the packets. These examples of different sets of attributes (traffic from specified source ports, traffic to specified destination ports, etc.) are examples of predetermined weighting factors for the attributes; if an attribute is used in the queue assignment process, the attribute is weighted highly, and it is not given much weight otherwise. Lavian discloses determining a priority queue for the data packet, based on the plurality of attributes and the network traffic load in Figure 6 and the associated explanatory text. Based on the MAC address and the line utilization, the priority queue to which the traffic is added is potentially changed.

Regarding claims **36, 42, and 48**, Lavian discloses the limitation that the plurality of attribute comprise port (lines 7-8 of paragraph 43 on page 5), type of service (lines 4-10 of paragraph 34 on page 4 – the high QoS required by the server is a type of service and is used to determine the threshold level used to evaluate the line utilization in the example of Figure 6; this is reinforced in lines 1-2 of paragraph 4 on page 1 and lines 1-2 of paragraph 34 on page 4 discussing the assignment of different classes of service to a priority queue), protocol (lines 10-11 of paragraph 43 on page 5), and priority (see lines 10-14 of paragraph 20 on page 2 which describe how the priority bit is used in the initial queue assignment).

Regarding claims **37, 43, and 49**, the limitation that the set of rules of reclassification depends on specific values of one or more of the attributes is disclosed by Lavian in the example of Figure 6 where the value of the line utilization attribute determines the queue assignment and thus the set of rules depends on the specific value of the line utilization percentage (and the MAC address).

Regarding claims **38, 44, and 50**, Lavian discloses the priority queue reclassifier is the Java client 160 and the constituent applets 157, 159, and 161 of Figure 5.

Regarding claims **39, 45, and 51**, Lavian discloses the limitation of moving the data packet from a queue of one priority to a queue of another priority throughout, specifically in lines 4-8 of paragraph 4 of page 1.

Regarding claims **40, 46, and 52**, Lavian discloses the limitation of maintaining the priority queue of the packet it the example of Figure 6. As long as the line utilization is below the threshold, the priority queue is maintained.

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert C. Scheibel whose telephone number is 571-272-3169. The examiner can normally be reached on Monday and Thursday from 6:30-5:00 Eastern Time.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Seema S. Rao can be reached on 571-272-3174. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



RCS 12-16-04
Robert C. Scheibel
Examiner
Art Unit 2666

FRANK DUONG
PRIMARY EXAMINER